Testimony of Sara Patton, Executive Director, NW Energy Coalition, Before the U.S. House of Representatives, Committee on Resources

Regarding H.R. 4857, the Endangered Species Compliance and Transparency Act of 2006

March 16, 2006

The NW Energy Coalition is a coalition of more than one hundred consumer, environmental, faith-based and low-income groups, unions and progressive utilities from the four Northwest states and British Columbia, working toward a clean and affordable energy future. I am testifying today in opposition to H.R. 4857. Although H.R. 4857 applies equally to all Federal Power Marketing Agencies (PMAs), this testimony is focused mainly on the Bonneville Power Administration (BPA) because that is our area of expertise and concern. However, in most cases, we believe the intent of these comments is applicable to the other PMAs.

Summary

The proposal in H.R. 4857 to require the Bonneville Power Administration (BPA) to report the costs of compliance with the Endangered Species Act (ESA) raises a number of concerns:

- Transparency of BPA's costs is a laudable goal, if there is full and honest accounting to inform the public of the whole story.
- This bill is unnecessary: the information is already readily available from BPA, and utilities are free to inform their customers if they wish.
- BPA's fish and wildlife funding is required by a number of federal laws and treaties; separating out ESA costs is difficult or impossible.
- Proposals to include foregone revenues in these costs imply that BPA can claim savings for violating federal laws, and that BPA owns the river.
- Meaningful economic transparency should address both costs and benefits.
- The definition of the firm customers' share of BPA's ESA costs can be interpreted in different ways, leading to starkly different conclusions. If not done correctly such accounting fosters more confusion than transparency.
- This issue is likely to focus national attention on the fact that BPA's rates are currently about 60 percent below market rates.

The NW Energy Coalition Supports Real Transparency

Environmental and consumer public interest groups would enthusiastically support H.R. 4857 if it mandated honest accounting of the costs and benefits of federal dam operations

on fish, anglers and fishing communities, irrigators, recreation businesses and other users of the river—along with power consumers. Only by looking at the whole picture can any particular cost category be put into perspective. H.R. 4857 looks at only a small part of how the Columbia River system is shared and paid for. This issue will be addressed in detail later in this testimony.

H.R. 4857 is Unnecessary

H.R. 4857 does not compel the production of any information that is not already available to the public, electricity utilities, or anyone else who seeks it. BPA currently provides information to the region regarding the costs of its fish and wildlife programs (including so-called "indirect costs").[1] Bonneville also provides a detailed walk through of all of its costs as part of its Power Function Review preparatory to its ratecase. Any utility wishing to provide this information to its retail consumers may do so; some do this now. This bill is not needed and would not change current practice at all.

Salmon Recovery Actions Meet a Myriad of Federal Responsibilities

BPA's investments in rebuilding fish and wildlife populations are required by a number of federal laws and treaties, including the Endangered Species Act, the Northwest Power Act, the Fish and Wildlife Coordination Act, the Clean Water Act and United States treaties with Indian Tribes and Canada. It is not possible to categorize which of the costs are related solely to the ESA.

Even without an ESA, Bonneville and the federal family have obligations to recover these valuable fish. H.R. 4857's mandate to isolate ESA costs is impossible, since most of the actions being taken for endangered and threatened fish and habitat overlap or are also required by these other laws and treaties.

For example, The Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), Section 16 U.S.C. 839b(h)(6)(E), requires the Northwest Power and Conservation Council (NPPC) to include measures in its Fish and Wildlife Program (Program) that:

(i) provide for improved survival of such fish at hydroelectric facilities located in the Columbia River system; and

(ii) provide **flows of sufficient quality and quantity** between such facilities to improve production, migration, and survival of such fish as necessary to meet sound biological objectives. (emphasis added)

More generally, the Northwest Power Act requires the Administrator and other Federal agencies to exercise their responsibilities "in a manner that provides **equitable treatment**

[1] See, e.g., Bonneville Power Administration, Financial Data for Fish and Wildlife Projects at http://www.efw.bpa.gov/Integrated_Fish_and_Wildlife_Program/financialdata.aspx

for such fish and wildlife with the other purposes for which such system and facilities are managed and operated." (Section 16 U.S.C. 839b(h)(11)(A); emphasis added). BPA's obligation "to adequately protect, mitigate, and enhance fish and wildlife…" (ibid.) is not a *secondary* "cost" of the power system, it is a coequal purpose along with irrigation, navigation, recreation and flood control.

Similarly, there are numerous treaty obligations to Native American Tribes that require BPA and the Federal agencies to restore and enhance their native fisheries. At the same time, the Federal Columbia River Power System (FCRPS) Biological Opinion requires specific flow and spill operations to ensure that the operation of the FCRPS does not jeopardize the continued existence of listed species under the ESA.[2] It is evident that these various obligations overlap and cannot be separated into ESA and non-ESA obligations.

Adding "Indirect Costs" is Improper and Obscures The Actual Monetary Contribution BPA Makes to Salmon Recovery

H.R. 4857 requires PMAs to include "foregone generation and replacement power costs" as indirect costs in their ESA-compliance calculations (Sec. 2 (c)). As explained below, it is false and highly misleading to include these items as "costs." It also improperly distorts the actual monetary contribution BPA makes to salmon recovery. H.R. 4857 would set a dangerous precedent by codifying this type of accounting. BPA states that its combined net costs include more than $300 million for fish and wildlife related hydrosystem operations, which accounts for over 50% of BPA's total fish and wildlife "investments" (if one assumes that such indirect costs can properly be deemed "investments").[3] BPA counts the revenue foregone and the cost of replacement power from operating the FCRPS to meet the requirements of the Endangered Species Act, the Northwest Power Act, the Clean Water Act, and other laws and regulations as a part of these costs.

Foregone Revenue

"Foregone revenue" is the cost of foregone generation; that is, the money BPA speculates it could have made if it did not have to operate the river to assist salmon migration. It is the lost generation from water spilled over the dams plus the difference in prices BPA forecasts it might have received if it could shift timing of generation into higher priced periods rather than when salmon need a push out to sea. Considering as a "cost" the revenues or profits that a business or agency could have made if it had violated federal laws, regulations, or court orders is a curious accounting concept, to say the least.

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[2] It is important to note that the flow targets in the Program and Biological Opinion are constrained by the current configuration of the hydroelectric system. Average spring flows in the Columbia before the dams were 450,000 cubic feet per second. The current target is 200,000 cubic feet per second—less than half the historical average. Unfortunately, the federal agencies have not been successful in meeting the Columbia and Snake River flow targets 53 percent of the time between 1995 and 2005.

[3] See, for example the presentation from BPA's Power Function Review: http://www.bpa.gov/power/pl/review/meetings.shtml, slide 38, which estimates indirect costs averaging $356.9 million per year for the FY2007-09 period.

An example is illustrative. Trucking companies must obey a number of safety regulations. These include providing seat belts, equipment inspections and rest breaks for drivers. These are all proper costs of compliance with these regulations. However, we do not count as a cost,[4] or even "indirect cost" the foregone revenue that the company could have realized if it did not have to give its drivers rest breaks, or if those drivers could drive over the speed limits or ignore weight limits. On the contrary, it is understood that the trucking companies do not own the highways, and the "cost" of sharing it with other users is not revenue somehow owed to them.

Given its practice of reporting foregone revenue for fish and wildlife protection, it is important to note that BPA does not report the foregone revenue associated with meeting other legal constraints on power generation such as providing irrigation water, flood control, maintaining minimum flow depths for river transportation, limiting rapid variations ("ramping"—which can damage streambeds and banks) in flow rates, or recreation. All of these other federally-mandated purposes limit the ability to generate electricity and reduce BPA's potential revenue. Hence, to be consistent, BPA would need to count them as "costs" as well.

For example, the NPCC has calculated that the 14.4 million acre-feet withdrawn for irrigation could generate an additional 625 average megawatts if the water remained in the river—about five percent of the total output of the BPA system.[5] (For comparison, the same study estimated the impact of fish operations at 9% of the output of BPA's system.) Analysis by the NPCC calculated that at average market rates, the foregone revenue of this irrigation would be $250 million per year.[6] At the market prices for the summer of 2005[7], the lost revenue associated with irrigation withdrawals was over $380 million. Neither BPA nor H.R. 4857 counts this "cost."

All of this begs the important question of whose costs these are. Are irrigation foregone revenues a "cost" for BPA's ratepayers? Is a requirement to keep rivers flowing at minimum levels for navigation another "cost"? If so, then one would conclude that the irrigators and barge and boat operators are being subsidized by Bonneville.

This logic is absurd. Bonneville does not own the river, it <u>shares</u> the river with all the other uses, including fish and wildlife. BPA is not entitled to all of the possible revenue it can squeeze out of the river, only its share. NW Energy Coalition recommends that Sec. 2(c) be deleted from the bill. The various uses and users of the river do not owe each other money, they are all simply sharing in this great resource.

However, if Congress believes it is important to report such costs, then it should require BPA to calculate the costs of each of the other purposes of the dams and report all of

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[4] No tax deduction is provided for these costs, for example.

[5] "Multiple Use Memorandum," NPCC, February 7, 2006, p.5

[6] ibid.

[7] Averaging over $75/MWhr.

them on a consistent basis. After all, every use of the river, from navigation to flood control to irrigation, reduces BPA's revenues, and its ability to fund its obligations.

Foregone salmon

We should also note, if the Committee wants to continue down the road of assigning indirect costs, that the NPCC found that 5 to 11 million salmon lost each year (compared to the period prior to dam construction) were attributable to damage caused by the hydroelectric system. Based on this estimate, the Columbia River Indian tribes, anglers and fishing businesses have "foregone" 340 to 750 million salmon and steelhead since the dams were built.

Salmon and steelhead are invaluable to tribal culture and religion—the tribes would not put a price on this loss. Non-tribal economists, on the other hand, would value the annual losses in the hundreds of millions of dollars.

Replacement Power Costs

H.R. 4857 also requires that BPA include "power purchases" due to fish and wildlife operations in its estimate of indirect costs. These costs can vary dramatically depending on water availability, market energy prices, and load demand – none of which can be properly attributed to salmon recovery.

This problem was made very clear in 2001 when BPA's power purchase costs alone exceeded $1 billion.[8] But that was a year when the agency eliminated "spill" for salmon, so it would be fair to say that Bonneville's salmon restoration efforts were *reduced* because the impact of fish operations on generation was even less than in previous years. Instead, BPA counts that as a year when its indirect costs skyrocketed. It is bad public policy to pin power purchase costs that could arise for any number of non-salmon-related reasons on salmon recovery. In fact, the reason power purchase costs were so high that year had nothing to do with fish and everything to do with energy deregulation problems, BPA's failure to foresee or control its subscription process that resulted in having to serve about 3,000 MWs of unexpected load in a very short period of time, and a drought in the Columbia Basin. BPA's own studies estimate that its decision to serve more load than it had power to provide cost it $3.9 billion over the FY2002-06 period![9]

Costs Must be Balanced with Benefits

Any meaningful effort to provide real transparency should include both the cost and the benefits of actions to recover salmon. H.R. 4857 would require that only costs be

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[8] Bonneville Power Administration, Fact Sheet on Fish and Wildlife Investments (January 2006). Available at: http://www.efw.bpa.gov/Integrated_Fish_and_Wildlife_Program/FWCostsprimer.pdf (viewed on March 13, 2006).

[9] What led to the current BPA financial crisis? A BPA report to the region, April 2003, p.iii. "The cost of augmenting the Federal Base System – including both power purchases and load reductions – makes up about three-fourths of the increase in costs over the last rate period. This increase in costs of $3.9 billion occurred because BPA assumed responsibility for serving about 3,300 average megawatts (aMW) of load beyond the firm generating capability of the Federal Base System."

reported, and therefore would fail to provide the public a complete picture. The economic benefits of salmon recovery efforts come in at least two forms: the economic benefit from increased fishing opportunities and the impact of actually implementing recovery measures.

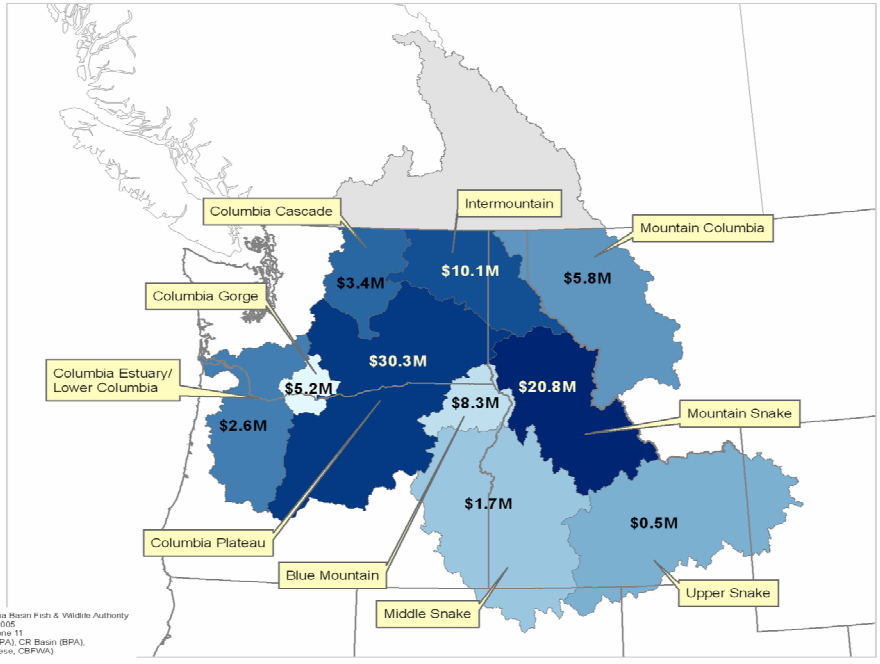
Economic Impact of Implementing Salmon Recovery Measures

BPA funds implementation of habitat improvements and other restoration measures through its "Integrated Program." Most of these fish and wildlife activities are implemented in rural areas east of the Cascade Mountains (Figures 1).[10]

Figure 1 shows the geographic distribution of BPA average annual fish and wildlife spending from its Integrated Program budget for the Fiscal Years 2001 through 2004. These investments pay salaries and purchase materials creating additional jobs and economic activity. The effects of these investments over the next several years can be expected to ripple through tribal and rural economies, creating thousands of additional jobs and significant economic activity. If this work is implemented over the next ten years at the level recommended by state and tribal scientists, the annual funding would support more than 5,000 jobs over the next ten years (assuming $40,000 per job).[11]

Columbia Basin Fish and Wildlife Authority

Figure 1. BPA Fish and Wildlife Average Investment (FY2001-04)



[10] APPENDIX 1: CBFWA Workgroup Analysis of Future Fish and Wildlife Budget Needs in Support of the BPA Rate Case for FY2007 – FY2009, April 25, 2005

[11] Ibid, p.2.

Economic Benefits of Commercial and Recreational Fishing Opportunities

If fish and wildlife populations increase, the Pacific Northwest will experience increased spending by fishers, hunters, and recreationalists creating additional jobs and economic benefits. Increased fishing opportunities for the commercial fishing industry will also have a ripple effect on local coastal communities.

To illustrate the economic benefit of increased fishing opportunities, one need not look further than 2001, when the region experienced better-than-average adult salmon returns due to improved ocean conditions. In that year, salmon runs increased sufficiently for Idaho to open a recreational fishing season on salmon. A report by credentialed independent economists examined the economic impact of the 2001 salmon season and found that the increased fish opportunity was responsible for almost $90 million in angler expenditures.[12] These expenditures were split evenly between the local river communities and the rest of the state. However, impacts were more significant in the smaller local economies. Angler expenditures in Riggins, Idaho (on the Salmon River) during the salmon fishing season stimulated 23 percent of the town's annual sales.[13]

Any presentation of economic costs must also provide the important benefits to local economies of investments in fish and wildlife while considering the costs of the actions.

BPA's Firm Customers' "Share" of Fish Costs is not Well-Defined.

H.R. 4857 requires that PMAs report each firm power customer's "share" of ESA compliance costs, but leaves the determination of what constitutes a share to the PMAs (in coordination with other Federal agencies). How shares are calculated, and what constitutes a firm customer, is left open in the legislation, but these issues are highly contentious. How shares are calculated can vary tremendously, depending on various assumptions. Statements we have seen in the press over the past year on the proportion of fish restoration costs in Bonneville's rates, for example, have ranged from less than 5% to 30%, using the same basic information!

While this information is extremely important, we all know that statistics can be presented or "spun" in different ways depending on the desired outcome. It is important that this information be fair and objective.

There are several reasons why this calculation is not straightforward and will most likely foster confusion rather than transparency. First, Bonneville cannot make a profit, being cost-based, so its total sales must equal its total costs. But that is in aggregate. To recover its costs, the agency sells to many different types of firm customers at different

[12] Ben Johnson Associates, Inc. The Economic Impact of the 2001 Salmon Season in Idaho (Prepared for the Idaho Fish and Wildlife Foundation), April 2003.
[13] Id.

rates. Some of these rates are determined by BPA, some by the market. Some rates to firm customers are fixed for many years, while others can vary periodically. An important and large group of customers, the investor-owned utilities, receives monetary benefits linked to the price of preference power.

This complicated web of arrangements can lead to confusion and misinterpretations of what, at first, seem easy questions. For example, BPA has stated that its power rates could go down 30% if it didn't have any fish costs.[14] This was reported by the press and electricity utility representatives as a statement that 30% of electric bills go for fish costs. This deductive leap is incorrect and troubling for several reasons:

1. All of BPA's sales help pay its fish costs, but many of BPA's firm customers' rates are fixed or set by the market. Therefore, if costs are reduced, only a subset of BPA's customers would get all the benefit of the reduction. How much those customers' rates would be reduced is not the same as how much of BPA's rates go to fish.

2. BPA was referring to its *power* rates only. But almost a quarter of BPA's budget is transmission, whose costs are recovered through a separate rate. Those rates were not included in the calculation, but all customers have to pay for transmission.

3. BPA was referring to its *wholesale* rate, but consumers pay *retail bills.* Retail bills contain all the other costs of delivering electricity, such as meter reading, distribution wires, billing, etc. Only about 50-60% of a homeowner's bill is due to the actual wholesale cost of power.

4. Finally most consumers in the region are served by utilities that buy only some of their power from BPA, if any. These consumers' bill-impacts would be proportionally less.

The attached table shows that actual rate impacts are more like 3-12% (Attachment A)

The Congressional Research Service also looked at this question and calculated that *on a per kilowatt-hour (kwhr) basis* (assuming that each kwhr sale helps pay for fish equally—though one could argue that since some kwh sell for twice the price of others, a fairer calculation would be an equal contribution from each dollar of revenue,) BPA's fish costs are about 15-17% of BPA's total costs.[15] But even this result is inflated, because the analysis failed to account for the fact that about 2,200 megawatts (MW) of power that BPA provides to investor-owned utility residential and small-farm customers is *monetized* instead of delivered as power. But those customers' monetary benefits are reduced or increased if fish costs are increased or decreased, as well, so they share in all

[14] Second Declaration of Paul, E. Norman, Sr. VP of BPA, in National Wildlife Fed'n, et al, v. NMFS, et al., p.6, Nov. 21, 2005,

[15] Memorandum, April 29, 2005 from Pervaze Sheikh and Larry Parker to the House Committee on Resources. Endangered Species Costs for Power Marketing Agencies.

of BPA's expenses. Adding them into the equation reduces the cost to closer to 12% on a per kwhr basis.

This discussion is not meant to argue the "correct" number, but to emphasize how controversial and complicated this issue is—and how open to misinterpretation it will be.

There are less costly, and more effective ways to restore wild salmon and steelhead.

Public interest groups, fishing based businesses, taxpayer advocates and others support a full and honest accounting of BPA's fish-restoration costs. This is because we know that the public supports the goal of restoring wild salmon and steelhead to the Columbia Basin, but only if that effort is successful. That is why we believe that there is a better way: the removal of the four lower Snake River Dams; replacing their modest amount of power with energy efficiency and renewables; extending irrigation pumps to continue irrigation to the 13 or so affected farms; and refurbishing the rail and highway system to ensure farmers can economically ship their goods to market.

As the true costs of the expensive and ineffective path we are currently on becomes clear, the region will realize that removing those four dams is a less-expensive option. Every day these dams continue to exist, the federal government is wasting money and holding back the quality of life for people in the region.

The federal government can act responsibly by taking down these four dams. Eliminating them will be less costly than allowing them to exist, and will create a more reliable energy source in the Pacific Northwest that is paid for by people in the region. Taking down these dams will also reverse the decline of an important natural resource, Pacific salmon.

BPA Electricity Rates – Shining a Spotlight

Bonneville's wholesale preference power rates are currently 59 percent below the market rates that Bonneville has assumed for FY 2006 in the current BPA rate case. On average, Bonneville would be 41 percent below the lower market rates it projects during the rate period. (Figure 2)[16]

These comparisons include all of the current fish and wildlife costs and impacts on BPA power operations. Even with those costs included, BPA power is significantly below market rates.

[16] Declaration of Roger Schiewe of BPA, in National Wildlife Fed'n, et al, v. NMFS, et al., spreadsheet entitled "River Ops, Genesys", November, 2005,

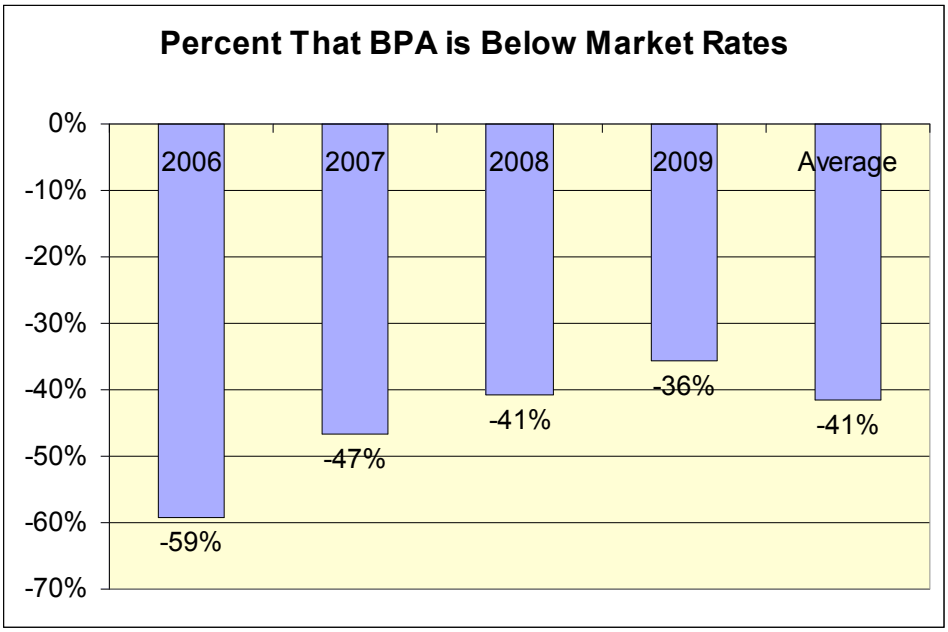


Figure 2

While NW Energy Coalition supports full transparency, it is important to note that even with BPA's large fish obligations, BPA's rates are the envy of other regions. If BPA's customers want to avoid these fish costs, they are free to get their power elsewhere—at about twice the price! We are concerned that shining a spotlight on BPA's rates will only renew calls by some outside the region who believe our rates are heavily subsidized as it is.

Conclusion

Although the NW Energy Coalition supports objective accounting of BPA's fish and wildlife-related costs, indirect costs are not appropriate to assign to one party in a shared system that is put to multiple uses. However, if Congress believes it is important to attempt to quantify these costs, it should insist that the impacts from other users such as irrigation and navigation are also accounted for. Unfortunately, H.R. 4857 introduces a number of difficult issues that need to be resolved before our Coalition could support it.

Thank you for this opportunity to provide these comments.

Costs to Ratepayers of BPA's Fish Costs

By the NW Energy Coalition

March 9, 2006

	Fish Costs in BPA's proposed PFR budget ($millions) (note 3)	4(H)10(c) Credit ($millions) (note 2)	Net Cost to BPA ratepayers ($millions)	Costs as percent of total BPA Budget (note 5)	BPA Fish Costs in Average Residential Electricity Bills per month (note 1): PGE (Portland Area) (note 6)	Seattle City Light (Seattle Area) (note 7)	Full Requirements Customers (note 8)
BPA's Fish Budget	$334.7	($75.0)	$259.7	7.1%	$0.68	$0.97	$3.25
BPA's "Foregone Revenues" (note 4)	$356.9		$356.9	9.8%	$0.94	$1.34	$4.46
Totals	$691.6	($75.0)	$616.6	16.9%	$1.62	$2.31	$7.71
			Percentage of Average Residential Electricity Bill (note 9)		2.5%	3.6%	11.9%

Analysis by Steve Weiss, NW Energy Coalition

Notes -- Key Assumptions:

1) Assumes 1,000 kw-hrs per month. Average cost per month. Note that typical costs are about $60-70 per month total, because utilities add their distribution costs (trucks, meters, power lines, labor, etc.) in addition to power costs.

2) NW Power Act Section 4(H)10(c) provides that taxpayers pay for "non-power" portion of fish costs; that is the dams provide multiple purposes (irrigation, navigation, power, etc.) and ratepayers only have to pay for their fraction of the use and costs of the dams. So taxpayers pay for fish costs of irrigators, etc.) Amount is estimate provided by BPA.

3) BPA Power Function Review February 7, 2005 workshop handout.

4) BPA Power Function Review February 7, 2005 workshop handout. This is revenue BPA could have possibly generated if it did not have to operate the river to assist salmon migration. This is the lost generation from water spilled over the dams plus the difference in prices BPA forecasts it might have received if it could shift timing of generation into higher priced periods rather than when salmon need a push out to sea. NWEC, tribes and salmon advocates disagree that operating the dams to provide some help for fish is a "cost." BPA does not list other "costs" such as irrigation withdrawals (about $250 million/yr.), opening locks to enable ships and barges to cross the dams, industrial and municipal water use, or flood control operations. The river is not owned by utilities, so "foregone revenues" are simply the cost of sharing the river with fish and other users.

5) Total BPA budget is about $2.6 billion for power, $700 million for transmission, $350 million for "foregone revenues). Total = $3.65 billion annually.

6) PGE's residential customers receive a credit from BPA of about $7.00/mo. through a complicated formula. This is fraction of that represented by fish costs.

7) Seattle City Light's customers get about 30% of their power from BPA, so the bill affect is 30% that of full requirements customers.

8) Full requirements customers get 100% of their power from BPA. $80 million changes their rate by about $.001/kwh.

9) Assumes an average retail rate of 6.5 cents/kwh and 1000 kwhs/month.